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The Commonwealth of Massachusetts

Department of State Police

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COMMONWEALTH OF MASSACHUSETTS

SECRETARY OF THE COMMONWEALTH
SUPERVISOR OF PUBLIC RECORDS
IN THE MATTER OF FEE ASSESSMENT
VIA EMAIL ONLY:

DOCKET NO.: _____

November 15, 2019

To the Supervisor of Public Records:

The Department of State Police (Department) hereby petitions, pursuant to G.L. c. 66, §10(b) and 950 CMR 32.00 et seq., the Supervisor of Public Records for approval to assess fees for costs associated with responding to a public records request submitted by Ms. Lucy Parson Labs on November 1, 2019. Specifically, Ms. Labs submitted a public records request to the Department seeking the following records: "[f]or all search warrants, applications for search warrants, cancellations, and authorization for search warrants between 2012 to the date of processing this request, please provide the following points of record for each: on all search warrants executed by the Massachusetts State Police -

1. Full Name of requester.
2. If arrest, arrest ID (e.g. some cities/states use, "Incident Report")
3. Reason(s) for search warrant (typically either hand-written, or checkboxes)
4. Badge ID (or similar) of requester
5. District/Unit
6. Name of Judge
7. Name of approving officer
8. Whether an Arrest happened
9. Requested location of search warrant
10. Location of search warrant execution
11. Type of search warrant
12. Statements used to justify search warrant
13. Time and date when search warrant was submitted for approval
14. Time and date when search warrant was executed

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15. Whether anything was seized
16. Whether anything was found
17. License plate of vehicle (if relevant)
18. Race of person for search warrant
19. Age of person for search warrant
20. State of person for search warrant
21. Whether an informant was involved
22. Method of contact with informant leading to search warrant (eg, phone call, mail, fax, email, etc)
23. Description of person search warrant executed on
24. Legal code of violation
25. Description of violation
26. Date of violation
27. If search warrant related to debt: name of company debt is owed to, amount owed
28. Whether FBI involved
29. ID associated with FBI document (e.g., IR #)
30. Whether search warrant was cancelled
31. Whether narcotics found'

At the onset, the Department's main records system (RAMS) and (ACISS) do not maintain a search warrant database concisely listing the (31) sub-categories of information requested for every executed search warrant from 2012-present. The requested data is not maintained in any structured manner which can be easily queried. In addition, the Department does not currently have a search warrant application form in its case management system as there is no requirement or policy requiring that every search warrant be entered into the ACISS or RAMS system. Any applications within the current system (ACISS) would be a scanned attachment.

Given the forgoing, the Department would have to search both its RAMS and ASICC systems for cases and/or files over an eight (8) year period to determine what, if any, data or information responsive to your request exists. In other words, the Department would be required to electrically search case files in order to identify (1) cases involving execution of search warrants and (2) whether any data responsive to your request is contained in the file. The Department would then have to extract that data and create a new and separate database.

In an effort to determine the number of reports and/or files the Department would have to review, the Department conducted a preliminary search of the ACISS system and determined that over 160,000 files would have to be reviewed within the Department's ACISS system alone. A preliminary RAMS search was also conducted which yielded approximately (1417) entries relating to search warrants. As such, the Department would have to manually review every single entry in the RAMS system in order to identify those cases in which the term "search warrant" was referenced. The Department would then, in turn,

be required to research, pull and review each case to identify whether any responsive information is contained in that file.

The Massachusetts State Police is a law enforcement agency with various missions ranging from public safety and criminal justice to homeland security and emergency preparedness. Given the nature of the search warrants and affidavits submitted in support of the search warrant, information within these case files involve highly sensitive law enforcement information. Undoubtedly, the files would contain witness/complainant identity information, criminal offender record information ("CORI"), private and personal information, dates of birth/social security numbers, investigative techniques, and/or whether a case is impounded or an open prosecution (f). These categories of information are specifically exempt pursuant to G.L. c. 4, § 7, cl. 26 (a), (c), and (f), and are not subject to public disclosure. Accordingly, the information must be segregated and redacted from before any documents are produced to a third party such as the requestor.

As a state agency with the responsibility for maintaining extensive confidential information, the Massachusetts State Police has an obligation to ensure proper procedures are maintained to prevent the dissemination of information which is protected from disclosure by law. Fulfilling such an obligation requires a careful review and segregation of records intended for disclosure. Segregation and redaction of numerous State Police records relating to search warrants and search warrant affidavits involves the application of multiple exemptions to the public records law to these types of records. Some information is simultaneously protected by more than one exemption or different exemptions depending on context or the time of disclosure. The fee estimates provided are for the segregation and redaction process as a whole, and in the view of the Department, cannot be split up by exemption. Since the segregation and redaction process is required by law, the Department is entitled to charge a fee for the cost of production and does not view this petition as a necessary prerequisite to charging a fee to the requestor and has communicated its fee estimate to the requestor separately.

Given the voluminous amount of information subject to review, the Department is entitled, pursuant to 950 CMR 32.07, to assess a fee to individuals whose request would impose a significant cost on public agencies. The fees assessment is imposed to defray the cost of researching, gathering, and reviewing this information.

Based upon these figures, the estimates, in good faith, that it would expend approximately (6) minutes per file/entry to review each RAMS and ACISS files. Accordingly, the Department estimates in good faith that it would, in total, expend approximately (6) minutes per file in order to properly research, review and redact records responsive to this request, if any, from each of the 160,000 plus entries/files.

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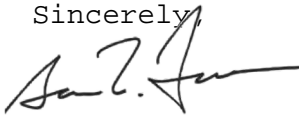
This results, in a good faith cost estimate, of \$403,425 (161,417 entries/files x 6 mins. = 16,141hrs. minus 4 gratis hours = 16,137 hrs. x 25 per hour = \$403,425).

This estimate represents an actual and good faith representation. The cost is necessary, reasonable and is not designed to limit, deter, or prevent access to requested public records. Department attempts to contact the requestor about her request have been futile.

The Department, therefore, requests that the Supervisor of Public Records approve the assessment of the above referenced fee.

Your attention to this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean W. Farrell", with a stylized flourish at the end.

Sean W. Farrell
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